

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA
SAVANNAH DIVISION**

JAMES LARRY PARSON,

Plaintiff,

V.

GEORGIA DEPARTMENT OF
NATURAL RESOURCES,

Defendant.

CV420-328

ORDER

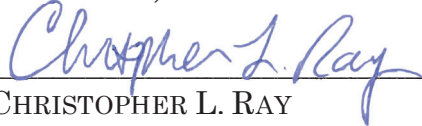
Plaintiff James Larry Parson alleges that the Georgia Department of Natural Resources discriminated against him on the basis of his age, in violation of the Age Discrimination in Employment Act, when it refused to hire him in 2018. *See* doc. 1 at 1. The Department of Natural Resources has moved to dismiss on the grounds that plaintiff's ADEA claim is barred by the Eleventh Amendment. *See* doc. 5 at 3–5. That motion is pending before the District Judge. At issue here is the Department's request for a stay of discovery pending the disposition of its motion to dismiss. Doc. 6. That motion is unopposed. *See* S.D. Ga. L. Civ. R. 7.5 ("Failure to respond within the applicable [fourteen-day] time period shall indicate that there is no opposition to a motion.").

This Court has broad discretion to stay discovery pending the resolution of a dispositive motion. *See S. Motors Chevrolet, Inc. v. General Motors, LLC*, 2014 WL 5644089, at * 1 (S.D. Ga. Nov. 4, 2014). In evaluating stays of discovery pending resolution of dispositive motions, “a court must take a ‘preliminary peek’ . . . to assess the likelihood that the motion will be granted.” *Taylor v. Jackson*, 2017 WL 71654, at * 1 n. 2 (S.D. Ga. Jan. 6, 2017) (quoting *Sams v. Ga West Gate, LLC*, 2016 WL 3339764, at * 6 (S.D. Ga. June 10, 2016)). The Court is satisfied that the Department has asserted a nonfrivolous argument that it is immune from suit under the ADEA. *See, e.g., Kimel v. Florida Bd. of Regents*, 528 U.S. 62, 91–92 (2000) (holding that the ADEA does not abrogate states’ sovereign immunity to suits by private individuals); *Cooper v. Georgia Dept. of Transp.*, ___ F. App’x ___, 2020 WL 6746741 at * 7 (11th Cir. Nov. 17, 2020) (“The ADA did not validly abrogate states’ sovereign immunity, so states are immune from suits under the ADA unless they waive the defense.” (citation omitted)).

Given the non-frivolous assertion of immunity and plaintiff’s implicit consent to the stay, the Court **GRANTS** the motion. Doc. 6. If this case is not entirely resolved by the District Judge’s order on the

Motion to Dismiss, doc. 5, the parties are **DIRECTED** to meet and confer within fourteen days of any order on that motion and file a status report, including updated information previously provided in the parties Rule 26(f) Report.

SO ORDERED, this 17th day of March, 2021.


CHRISTOPHER L. RAY
UNITED STATES MAGISTRATE JUDGE
SOUTHERN DISTRICT OF GEORGIA